

Bogus "IRA Approved" Investment Schemes

Your retirement savings are in danger of being scrambled by investment schemes falsely promoted as "IRA Approved" or otherwise endorsed by the Internal Revenue Service (IRS). Members of the North American Securities Administrators Association (NASAA) estimate that tens of thousands of unwary investors have invested hundreds of millions of dollars of their savings through individual retirement accounts (IRAs) and other tax-deferred retirement savings vehicles that will end up being largely or entirely worthless.

Promising sky-high returns of 200-800 percent that will supposedly put investors on "Easy Street" with a bonanza of retirement income, the "IRA Approved" investment schemes range from the latest in high-tech (including wireless cable television and specialized mobile radio) to exotic livestock (such as ostrich farming) to real estate investment pools.

Some "IRA Approved" schemes have been promoted through slick television "infomercials" and radio ads that turn the tables on investment victims by getting them to place the first call to the illicit promoters, rather than the other way around. The promoters cloak themselves in the legitimacy of the IRS and also seek to evade the consumer protection requirements of state and federal securities laws by claiming to be unregulated "general partnerships" and "limited liability companies."

The truth is there is no such thing as an 'IRA Approved' or 'sanctioned' investment. The IRS does not give its blessing to specific investments. These schemes attempt to fly below the radar of state and federal securities laws designed to protect investors and, in doing so, fail to indicate the extremely high likelihood that investors will lose 100 percent of their principal.

How do "IRA Approved" Schemes Work?

An undercover securities investigator in a Midwestern state, posing as a potential investor in a high-tech scheme, was reassured by a salesperson . . . "This is IRA-sanctioned. You can remove money from an IRA account and put it into this IRA without any penalties or taxation whatsoever involved at all, so certainly that lets you know that it must be, um, very solid because the government would not allow anything like that to happen if it was not something very solid for you to get into..." (tape transcript)

Although most financial advisors urge individuals to build an IRA (or IRAs) with a diversified balance of investments (such as certificates of deposit, mutual funds, individual stocks, and bonds), it is legal to put almost any investment in a retirement savings plan. Under federal tax law, only a few categories of investments are prohibited for IRA dollars, including art objects, antiques, stamps, and other collectibles (including some coins).

The major shift in recent years away from employer controlled pensions in favor of self-directed retirement savings has created an opening for unscrupulous promoters of illicit investment schemes. These individuals realize that billions of dollars in investment capital is now in the hands of individuals who are ill equipped to make decisions about how to save wisely for their retirement years.

As a result, a growing number of investment schemes include with all solicitation materials the paperwork needed to establish an IRA (or transfer) existing retirement savings. In addition, individuals leaving one job and forced to make a decision about where to rollover their retirement savings within 60 days without penalty are also prime targets for investment schemers.

Here's an actual sales pitch from a letter sent by the promoters of an illicit wireless cable television scheme described as a "Qualified Retirement Plan."

" . . . That means you can replace any of your low-yield IRAs with a more profitable but still relatively safe wireless cable investment. Many of our current customers took substantial positions with us after comparing their actual IRA return of 3 to 5 percent to our 400 percent projected return. They simply did their homework, looked at all the facts and decided that the investment was as safe as any around. It just happens to have a higher return!"

How do the Schemers Find Potential Investors?

Not so long ago, almost all illicit investment schemes were promoted through high-pressure telemarketing "cold calls" that zeroed in on likely victims (or "mooches," to use the unflattering terminology of the industry). However, new "IRA Approved" investment schemes have been promoted through television "infomercials" and radio ads. Those who respond by calling a toll-free "800" number get a package of materials, followed by high-pressure telephone sales pitches. Fraud investigators speculate that getting victims to call first makes the work of the schemer much easier, since the potential investor has already "bought into" the scheme by taking the first step.

Types of "IRA Approved" Investment Schemes

In recent years, promoters of investment schemes were quick to realize that new and largely untested technologies could be peddled to novice investors who are unaware of the enormous risks and uncertainties involved. It is important to recognize that these technologies are not the problem; the concern is about the schemers who exploit the technologies in order to victimize investors. Among the major technologies that have been latched on to by promoters of "IRA Approved" schemes in recent years are wireless cable and specialized mobile radio.

In addition to the high-tech schemes, there also has been a surge in illicit investment schemes involving exotic livestock (such as ostriches and emus) and real estate deals (such as mortgage pools). The ostrich deals are usually packaged as partnerships in which investors pay several thousand dollars or more for shares in "breeder pairs" of the animals, which are then raised on ranches, usually in the Southwestern United States.

Protecting Yourself Against "IRA Approved" Schemes

The Delaware Securities Division urges you to take the following steps in order to avoid falling victim to an "IRA Approved" investment scheme:

- **Exercise extra caution during the tax season when it comes to making IRA investments.** Just because the pressure may be on to make a decision about your IRA or other retirement plan contribution, don't make the mistake of going along with the first sales pitch you hear. Take the time to evaluate the investment opportunity and, if necessary, consult with a competent tax advisor.
- **Avoid any investment touted as "IRA Approved" or otherwise endorsed by the IRS.** This is a clear sign of trouble. Those who promote legitimate investment opportunities do not pretend to have the blessing of the IRS. The IRS does not endorse specific tax deals.
- **Don't buy an investment on the basis of a television "infomercial" or radio advertisement.** Just because an ad for an investment airs on television or radio does not mean that it has been "cleared" or otherwise reviewed by some federal or state agency. And don't assume that a radio or television station has done anything to check out the claims made by the advertisers; most broadcasters take no responsibility for the accuracy of the ads they air. The same is true for many investment-related radio talk show hosts, many of whom do not check out advertisers and may receive a payment for their personal endorsement.
- **Beware of promises of no-risk, sky-high returns on exotic investments for your retirement account.** It is true that the promised returns of some high-tech investment deals far outstrip those that are projected for stocks, bonds, and other more mainstream investments. But it is a basic rule of investing that a higher return means higher risk. If someone tells you that you can make 200 or 300 percent on your money in a few years and that the chance of loss is low or nonexistent ... you have found a deal that is too good to be true!
- **Never transfer or rollover your IRA or other retirement funds directly to an investment promoter.** Your fund has to go to a pension fund administrator, such as a bank, trust department or

mutual fund. If your money is sent directly to the promoter, it is not going into a recognized IRA and, even worse, may be gone for good.

- **Proceed with caution when you are encouraged to invest in a "general partnership" or "limited liability company."** Many of the current crop of high-tech, real estate and exotic livestock deals are packaged as "general partnership" or "limited liability companies" in an attempt to evade the consumer protection requirements of state and federal securities laws. These laws are designed to require promoters to disclose all pertinent facts about themselves and the investment. In attempting to skirt these laws, the promoters may conceal personal bankruptcies, previous securities law violations, risks (including lack of expertise), actual marketing costs (some of the high-tech deals involve 40-60 percent commissions for sales people, leaving little or nothing for the actual project), and competing technologies. Just because a promoter claims that what he or she is offering is something other than a "security," does not make it so!
- **Don't be swayed by the fact that a bank or trust department is serving as an IRA custodian.** IRA custodians have to follow many IRS rules in handling retirement funds, but are not obligated to check out the investments to which savers direct funds. The custodian is not "on the hook" if your IRA investment turns out to be a worthless scheme.
- **Always check out an investment and promoter before you turn over your money.** Your state securities division is a watchdog agency that works to protect investors against investment fraud and abuse. Before investing, always check with the securities agency in your state to determine that the salesperson and the investment opportunity are in full compliance with the securities laws and rules. even if the promoter of a high-tech, exotic livestock or real estate investment claims that an investment is not a "security," you should still contact the agency in your state. Another good reason for calling: you can check out the disciplinary background of the firm and salesperson soliciting your money. Hundreds of enforcement actions have been taken against "IRA Approved" investment schemes and related offerings. A serious problem is a "red flag" indicating that you may want to avoid a firm or salesperson with a checkered past. To contact the Delaware Securities Division to check whether the investment and promoter are registered in Delaware, call (302) 577-8935.
- **Educate yourself about IRAs and retirement planning.** The IRS offers "Individual Retirement Arrangements" at no cost to those who call 1-800-TAX-FORM (829-3676). Another good reference is "Planning for Your Retirement," an introductory brochure from the American Association of Retired Persons (AARP) Worker Equity Program. Write: "Planning for Your Retirement," AARP, 601 E Street NW, Washington DC 20049.

Prepared by the North American Securities Administrators Association (NASAA)